

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 2435 - HB 2716

March 11, 2012

SUMMARY OF BILL: Authorizes the court to award reasonable attorneys' fees to a plaintiff if substantially prevailing in a claim against a governing body regarding the Open Meetings Act.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$10,000

Increase Local Expenditures – Exceeds \$10,000*

Assumptions:

- Any person can bring a lawsuit against any state or local government entity for allegedly being in violation of the Open Meetings Act.
- The court hearing the suit will have discretion to award attorneys' fees and will be the entity determining if a plaintiff has substantially prevailed.
- According to the Westlaw database, since 2007 there have been approximately 18 lawsuits involving the Open Meetings Act that have gone to the Court of Appeals or higher; however, it is unknown how many have been brought to court and never appealed, or if any cases were ever awarded attorneys' fees.
- It is estimated that approximately three Open Meetings Act lawsuits a year will go to the Court of Appeals or higher.
- It is assumed the number of lawsuits brought against local government entities will maintain the same average.
- The fiscal impact of this bill is dependent upon several unknown factors such as the hourly rate charged by plaintiffs' attorneys, the number of hours spent preparing for and litigating the cases, and the number of cases where plaintiffs have prevailed substantially and the court awards attorney fees. Given the extent of unknown factors, a precise estimate for state and local governments cannot be determined. However, it is reasonably estimated that the recurring increase in state and local expenditures will exceed \$10,000.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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